

AMENDED IN SENATE AUGUST 23, 1999

AMENDED IN ASSEMBLY APRIL 12, 1999

CALIFORNIA LEGISLATURE—1999–2000 REGULAR SESSION

ASSEMBLY BILL

No. 1385

Introduced by Assembly Member Battin

February 26, 1999

An act to add and repeal Section 12012.25 of the Government Code, relating to Indian tribes.

LEGISLATIVE COUNSEL'S DIGEST

AB 1385, as amended, Battin. Indian tribes: tribal-state gaming compacts.

(1) Existing federal law, the Indian Gaming Regulatory Act of 1988, hereafter IGRA, provides for the negotiation and execution of tribal-state gaming compacts for the purpose of authorizing class III gaming, as defined, on Indian lands within a state. Existing federal law does not specify which official of a state shall negotiate and execute these compacts. Existing state law provides that the Governor is the sole official organ of communication between the government of this state and the government of any other state or of the United States, but currently operative law does not specifically designate the Governor as the sole organ of communication between this state and a tribal government.

This bill would provide that the Governor is the designated state officer responsible for negotiating and executing, on behalf of the state, tribal-state gaming compacts with

federally recognized Indian tribes located within the State of California pursuant to IGRA for the purpose of authorizing class III gaming on Indian lands within this state. This bill would *require the Governor, following completion of negotiations, to submit a copy of the executed compact to the Legislature for its ratification by statute, and to the Secretary of State, who would be required to forward a copy of the executed compact and ratifying statute to the Secretary of Interior in accordance with a specified provision of IGRA upon his or her receipt of the statute ratifying the tribal-state compact.* The bill would also authorize the Governor to waive the state's immunity to suit in federal court in connection with these compacts, and would provide that the execution of, and *the on-reservation impacts of* compliance with the terms of, these compacts, shall not be deemed to constitute a project for purposes of the California Environmental Quality Act. ~~This bill would also provide a specified procedure by which the Legislature can reject executed compacts by majority vote, and would provide that executed compacts shall become effective upon the expiration of the period for this rejection procedure, and shall then be immediately submitted by the Governor to the Secretary of the Interior pursuant to IGRA.~~

(2) This bill would provide that its provisions shall become inoperative if ~~all or part of~~ the initiative measure approved by the voters as Proposition 5 at the November 3, 1998, general election, is implemented pursuant to a final determination by the California Supreme Court in a specified case, ~~and shall be repealed as of January 1 of the following year.~~

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 12012.25 is added to the
 2 Government Code, to read:
 3 12012.25. (a) The Governor is the designated state
 4 officer responsible for negotiating and executing, on
 5 behalf of the state, tribal-state gaming compacts with
 6 federally recognized Indian tribes located within the
 7 State of California pursuant to the federal Indian Gaming

1 Regulatory Act of 1988 (18 U.S.C. Sec. 1166 ~~et seq. to 1168,~~
2 ~~incl.,~~ and 25 U.S.C. Sec. 2701 et seq.) for the purpose of
3 authorizing class III gaming, as defined in that act, on
4 Indian lands within this state.

5 (b) The Governor is authorized to waive the state's
6 immunity to suit in federal court in connection with any
7 compact negotiated with an Indian tribe or any action
8 brought by an Indian tribe under the Indian Gaming
9 Regulatory Act (18 U.S.C. Sec. 1166 et seq. and 25 U.S.C.
10 Sec. 2701 et seq.).

11 (c) In deference to tribal sovereignty, *neither* the
12 ~~execution of, and compliance with the terms of, a~~
13 ~~tribal-state of a tribal-state gaming compact shall not nor~~
14 ~~the on-reservation impacts of compliance with the terms~~
15 ~~of a tribal-state gaming compact shall~~ be deemed to
16 constitute a project for purposes of the California
17 Environmental Quality Act (Division 13 (commencing
18 with Section 21000) of the Public Resources Code).

19 ~~(d) Following completion of negotiations conducted~~
20 ~~pursuant to this section, the Governor shall submit any~~
21 ~~executed tribal-state compact to both houses of the~~
22 ~~Legislature, and the compact shall thereafter become~~
23 ~~effective, for purposes of state law, upon the expiration of~~
24 ~~the 30th day following submission of the compact to the~~
25 ~~Legislature, unless, within that period, the compact is~~
26 ~~rejected by both a majority of the membership of the~~
27 ~~Assembly and a majority of the membership of the~~
28 ~~Senate. However, if the 30-day period ends during a~~
29 ~~recess of the Legislature, the period shall be extended~~
30 ~~until the sixth calendar day following the day on which~~
31 ~~the Legislature reconvenes. Unless the compact is~~
32 ~~rejected by the Legislature as provided in this section, the~~
33 ~~Governor shall submit the compact for approval by the~~
34 ~~Secretary of the Interior immediately upon expiration of~~
35 ~~the period provided for review by the Legislature.~~

36 (d) *Following completion of negotiations conducted*
37 *pursuant to subdivision (a), the Governor shall submit a*
38 *copy of any executed tribal-state compact to both houses*
39 *of the Legislature for ratification by statute, and shall*

1 *submit a copy of the executed compact to the Secretary*
2 *of State for purposes of subdivision (f).*

3 *(e) A statute ratifying a tribal-state compact shall be*
4 *approved by each house of the Legislature, a majority of*
5 *the members thereof concurring, and signed by the*
6 *Governor, unless the statute contains implementing or*
7 *other provisions requiring a supermajority vote, in which*
8 *case the statute shall be approved in the manner required*
9 *by the Constitution.*

10 *(f) Upon receipt of a statute ratifying a tribal-state*
11 *compact negotiated and executed pursuant to this*
12 *section, the Secretary of State shall forward a copy of the*
13 *executed compact and the ratifying statute to the*
14 *Secretary of the Interior for his or her review and*
15 *approval, in accordance with paragraph (8) of subsection*
16 *(d) of Section 2710 of Title 25 of the United States Code.*

17 SEC. 2. Section 1 of this act shall become inoperative
18 ~~if all or part of the Tribal Government and Economic~~
19 ~~Self-Sufficiency Act of 1998, an initiative statute approved~~
20 ~~by the voters as Proposition 5 in the November 3, 1998,~~
21 ~~general election, is implemented pursuant to a final~~
22 ~~determination by the California Supreme Court in the~~
23 ~~case consolidated cases of Hotel Employees & Restaurant~~
24 ~~Employees International Union v. Wilson (1998 D.A.R.~~
25 ~~12266), and shall be repealed as of January 1 of the~~
26 ~~following year, unless a later enacted statute that is~~
27 ~~enacted before that date deletes or extends that date.~~
28 *Davis (SO74850) and Cortez v. Davis (SO74851).*